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Ms Thomasenia Duncan, Esq
General Counsel
Federal Election Commission
999 E Street NW
Washington DC 20463

MUR # 6044

RE COMPLAINT AGAINST RONNIE MUSGROVE FOR SENATE

Dear Ms Duncan

Pursuant to 2 USC § 437g(a)(1), the following is a Complaint against Ronnie Musgrove for Senate, the principal campaign committee of Ronnie Musgrove ("Musgrove campaign"), and the Democratic Senatorial Campaign Committee ("DSCC") Mr Musgrove is a candidate for United States Senate from the State of Mississippi, and the DSCC is a Democratic national political party committee dedicated to electing Democrats to the United States Senate

Summary

In using non-public footage of Ronnie Musgrove shot with his obvious cooperation and coordination, the DSCC and the Musgrove campaign have knowingly and willfully conspired to film and air express advocacy advertisements valued far above permissible coordinated expenditure limits and/or permissible contributions to the Musgrove campaign Such conduct is an obvious effort to violate the Federal Election Campaign Act, as amended, and the Regulations of the Federal Election Commission ("FEC")

Facts¹

On Tuesday, July 15, the DSCC began running a television advertisement featuring original footage of Ronnie Musgrove, which expressly advocates Musgrove's election Due to the size and breadth of the DSCC's statewide airtime purchase, such advertisement is valued at approximately \$240,214 per week, excluding production costs Based upon publicly available information, a buy has been made for July 15 – July 28

The advertisement, which focuses on federal budget and taxation issues, was filmed on Wednesday, July 9, 2008, at the Madison County Economic Development Authority in Madison County, Mississippi, and on the nearby Canton Square Given the quality of the footage, it would have been virtually impossible for DSCC production teams to merely stumble upon Musgrove in the following contrived positions, at staged locations where no other members of the media or public were apparently present or participating

¹ The information contained in this Complaint is based upon information and belief

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- (1) Standing at the head of a table, ostensibly conducting a "meeting" about budget and taxation issues, as evidenced by poster-sized graphs and charts,
- (2) Looking contemplatively out a darkened window, staged so he would appear alone in the shot while browsing papers held in his hands, and
- (3) Socializing while facing a camera with various Mississippi citizens, who may or may not have realized they were being filmed for a DSCC political advertisement on Musgrove's behalf

Despite the Musgrove campaign's obvious cooperation with the advertisement's film crew – for example, the campaign held a staged "meeting" wherein Musgrove led a discussion on budget issues – the advertisement's written and audio disclaimers state as follows

Written

Paid for by the Democratic Senatorial Campaign Committee www.dacc.org and not authorized by any candidate or candidate's committee The Democratic Senatorial Campaign Committee is responsible for the content of this advertising

Audio

The Democratic Senatorial Campaign Committee is responsible for the content of this advertising

Legal Analysis

The DSCC's apparent contention that its advertisement qualifies as a party issue ad having nothing to do with Musgrove's campaign is contradicted by the advertisement's very contents, and specifically by Musgrove's own role in the ad

To argue that its ad is legal, the DSCC seems to be arguing that a DSCC production team descended upon Mississippi of its own volition, created a staged set of events in Madison County, Mississippi, without knowing Musgrove's exact schedule or whereabouts, and convinced Mississippi citizens to participate without their knowing that Musgrove would be involved – all without the Musgrove campaign's cooperation, participation or preparation Then, lo and behold, Ronnie Musgrove just *happened* to appear at the appropriate time and place and popped before the DSCC camera in a closed location in order to discuss his belief in a strong economy

This DSCC's dubious suspension of reality is necessary because FEC rules clearly state that a political party communication is coordinated with a candidate or candidate committee when the communication (1) is paid for by the party committee, and (2) is a simple "republication" of materials "prepared" by a candidate² See 11 CFR §§ 109.37, 109.21(d) Both of these requirements are met here

² FEC rules actually provide for a third requirement – that the communication meet the "conduct" standard set forth in FEC rules However, this third requirement is generally collapsed into the second when examining the "republication" of campaign materials, as one of the "conduct" standards listed by the FEC is "republication" See 11 CFR §§ 109.37, 109.21(d)

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With respect to the first requirement articulated in § 109 37, the DSCC has already admitted via its advertising disclaimer that it paid for the advertisements. No further inquiry is necessary on this point.

With respect to the second requirement, it is abundantly clear that the advertisement in question was a simple republication of materials "prepared" by the Musgrove campaign.³ Materials need not previously exist or be used prior to the party committee's republication in order to meet the definition of "prepared" – were this the case, the exception would swallow the rule. Indeed, the American Heritage Dictionary defines "prepare" as "[t]o make ready beforehand for a specific purpose, as for an event or occasion." American Heritage Dictionary, Fourth Edition. Certainly, this is *exactly* what the Musgrove campaign did for the DSCC, even under the most charitable view of their "preparatory" activities on July 9, 2008 – scheduling Musgrove's time, planning faux meetings for the DSCC's camera, and conspiring Mississippi citizens to participate in the charade.

The approximate cost of the DSCC/Musgrove coordinated advertisement is \$240,214 for the last week alone. Federal law limits national party committee's coordinated communications in Mississippi in 2008 to \$180,800.⁴ As such, it is clear that the Musgrove campaign and the DSCC have broken and continue to break a plethora of laws and Commission regulations in several areas: (1) ignoring the coordinated limits binding party committees, (2) thereby making a wildly excessive contribution from the DSCC to the Musgrove campaign, (3) failing to properly report such coordination or contribution(s) on public campaign finance disclosures for either entity, and (4) violating federal disclaimer rules by failing to accurately state that Musgrove and the Musgrove campaign "approved" their advertisement and by failing to include a "stand by your ad" disclaimer, *see* 11 CFR § 110.11.

These rules are not mere technicalities, and the Musgrove campaign and DSCC may be held criminally liable for their knowing and willful disregard of federal law.

Conclusion

Accordingly, in order to restore integrity to the laws under which Senate elections are supposed to be run, the Commission should conduct an immediate investigation into the facts and circumstances set forth herein, and order the individuals and committees involved in this matter to comply with the law and cease the airing of coordinated, express advocacy advertisements in violation of federal law.

³ Unlike ads that simply refer to a federal candidate, there is no 90 day temporal limit on the application of the FEC's coordination rules to party committee ads that republish campaign materials. Therefore, even though the ads are airing outside the 90 day time frame before the general election, the FEC coordination rules apply.

⁴ *See* http://www.fec.gov/info/charts_441ad.shtml#Senate. Such amount may be spent by both the state Democratic party and the Democratic National Committee. We assume that one such entity has formally transferred its limit to the DSCC.

Sincerely,



Austin F Barbour
Wicker for Senate
Campaign Manager

SWORN TO AND SUBSCRIBED before me this 22 day of July, 2008



SEAL


Notary Public

My Commission Expires 7/31/12

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COMPLAINANT CONTACT INFORMATION

**Austin F Barbour
Campaign Manager
Wicker for Senate
1755 Leha Drive, Suite 300
Jackson, MS 39216**

**Phone 601-984-3636
Fax 601-984-3601**

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